

Understanding Your RIGHT TO PRIVACY

What is the right to privacy?

The right to privacy is the right to be let alone. If you are HIV+, it means that you are entitled to:

- Keep your medical condition to yourself;
- Choose when you want to reveal your HIV status to others;
- Choose who you want to reveal your HIV status to; and
- Not have your medical information released to anyone else unless you have given your express consent.

It also means that you shouldn't be bothered by other people on account of your HIV status.

What does the law say?

International law recognizes the right to privacy but with the exception of Fiji and the Marshall Islands, Pacific Island Constitutions do not recognize a general right to privacy.

Although there is no actual law which gives you the right to keep personal information private, some people still have a legal obligation to keep your information confidential.

For example:

- Your employer;
- Your doctor; and
- Your lawyer

all have a legal obligation to keep your medical information confidential.

This means that they cannot tell anyone that you are HIV positive without your express permission.

For more information about confidentiality, see PIAF's brochure entitled *What is Confidentiality?*

How can my right to privacy be protected?

- Demand anonymous HIV testing sites which will help ensure that your HIV+ status stays private;
- Talk to your doctor/employer/lawyer about your right to confidentiality;
- Talk to your family and friends about keeping your HIV+ status private;
- If your doctor or other health care professional has told other people that you are HIV positive, you can consider filing a complaint with the Ministry of Health.
- You may also consider a private law suit. You can argue that the doctor, in breaching his/her duty of confidentiality, fell below the reasonable standard of care expected of doctors.
- If someone is telling lies about you, you can consider starting a defamation law suit. See PIAF's *What is Defamation* brochure for more information.

Why should privacy be respected?

- If people are confident that their privacy will be respected, they will be more likely to undergo voluntary HIV testing and seek early treatment for the disease
- When privacy is respected, people living with HIV/AIDS are less likely to suffer discrimination.

Since there is still a lot of ignorance and fear about HIV, discrimination is the most common result of public knowledge about a person's HIV status.

Is there a "right to know"?

1. Media

People who work for the media may say that they have the right to publish stories about people living with HIV/AIDS because the public has "a right to know".

HIV is *not* spread through casual contact so HIV+ people are not a threat to the public at large. The public at large does not have a right to know that you are HIV+.

People who work for the media may also claim that they have the right to publish this information because of their right to freedom of expression or freedom of the press.

There are good reasons for limiting freedom of expression in this instance. Persons with HIV/AIDS and their families may suffer humiliation and discrimination if their HIV status is published.

2. Community

Keeping personal information like your HIV status may be more difficult in small communities. Your community may also feel that they have a right to know if they are being put at risk.

So long as you take the necessary precautions to avoid disease transmission, your community is not at risk. They do not have a right to know you are HIV+.

It is everyone's responsibility to practice safe sex. It is not just the responsibility of people who are HIV+

3. Sexual Partners

Your sexual partners have a right to know that you have HIV.

You have a moral responsibility to share this information with them.

For more information contact:



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Special thanks to:



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University of the South Pacific, School of Law

for their support in the development of this project